In the Office Action, Claim 1 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,517,507 (*"Needham et al."*) in view of U.S. Patent No. 6,031,827 (*"Rikkinen et al."*). Claim 2 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Needham et al.* in view of *Rikkinen et al.* and further in view of U.S. Patent No. 5,995,496 (*"Honkasalo et al."*). Claims 3-14 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Needham et al.* in view of *Honkasalo*, and further in view of U.S. Patent No. 6,108,530 (*"Ayabe et al."*). Claims 15-23 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Needham et al.* in view of *Honkasalo*, and further in view of *Ayabe et al.*

Rikkinen et al. discloses a method for controlling radio resources by dividing the resources into frames and allocating the individual frames to different radio connections. *Needham et al.* discloses determining whether a received data message is of unacceptable quality and if so, notifying by energy bursts so that the sending unit detecting the energy bursts may retransmit the data message. *Needham et al.* also discloses that a transmitting device may be a base station or a communication unit, and a receiving device may be a base station or a communication unit. Further, *Needham et al.* discloses dividing up long messages into smaller sections or frames for transmission. *Honkasalo et al.* discloses controlling transmission power in wireless packet data transfer. *Ayabe et al.* discloses dividing and packaging messages into fragments.

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The present application discloses a method for transmitting user data on a reverse common channel in a mobile communication system without a reverse dedicated channels. The user data is divided into a plurality of segmented messages if the user data is longer than a data segment in a frame of the reverse common channel. The plurality of segmented messages are then transmitted in the data segments of consecutive frames on the reverse common channel. It is then determined whether a base station has received each of the segmented messages.

In Code Division Multiple Access (CDMA) technology, the reverse link includes physical channels such as common reverse channels and dedicated reverse channel. The common reverse channels further include a reverse access channel, reverse enhanced access channel, and reverse common control channel. The dedicated reverse channel further includes a reverse pilot channel, reverse supplemental channels, a reverse dedicated control channel, and a reverse fundamental channel. In operation, there may be many unique ways of utilizing these channels.

As claimed in independent Claims 1 and 15, the present application is directed respectively to a method of transmitting user data on a reverse common channel *with a reverse dedicated channel released*, comprising, inter alia, designating the reverse common channel to the reverse dedicated channel, and a method for receiving messages via consecutive frames on a designated reverse common channel.

Although the Office Action points to Col. 3, lines 62-65 of *Needham et al.* and Col. 3, line 61 to Col. 4, line 10 and Col. 19, lines 15-30 of *Rikkinen et al.* as disclosing this designating of the

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reverse common channel to the reverse dedicated channel, it is respectfully submitted that those sections of *Needham et al.* and *Rikkinen et al.* do not disclose using reverse common channel and reverse dedicated channel. Rather, *Needham et al.* and *Rikkinen et al.* generally refer to communication between units and uplink transmission. *Needham et al.* and *Rikkinen et al.* are completely silent with respect to the reverse common channel and the reverse dedicated channel or how these different channels are utilized during the communication or uplink transmission. Further, *Honkasalo et al.* and *Ayabe et al.* do not disclose what *Needham et al.* and *Rikkinen et al.* fail to disclose. Also, neither *Needham et al.*, *Rikkinen et al.*, *Honkasalo et al.*, nor *Ayabe et al.*, alone or in combination, disclose transmitting relatively long burst data by using only a reverse common channel with a reverse dedicated channel release, as in Claims 1 and 15 of the present application. Therefore, it is respectfully submitted that Claims 1 and 15 are not obvious over *Needham et al.*, *Rikkinen et al.*, *Honkasalo et al.*, and *Ayabe et al.*, alone or in combination.
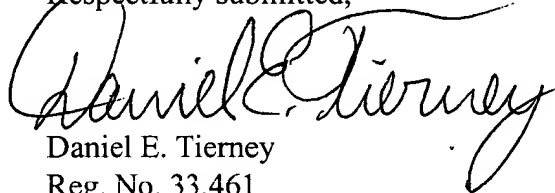
Also, the Office Action briefly mentions that the claimed elements of designating the reverse common channel to the reverse dedicated channel or transmitting on the designated reverse dedicated channel are inherent if not obvious. However, regarding inherency, the Court of Appeals for the Federal Circuit has stated that an inherent limitation is one that is necessarily present; invalidation based on inherency is not established by "probabilities or possibilities." <u>Scaltech, Inc. v. Retec/Tetra, LLC.</u>, 178 F.3d 1378, 1384 (Fed. Cir. 1999). As described above, CDMA reverse physical channels include a number of channels. The cited references do not provide details on how or when these channels are utilized when transmitting from a mobile station to a base station.

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Therefore, it is respectfully submitted that *Needham et al., Rikkinen et al., Honkasalo et al.* and *Ayabe et al.* fail to anticipate the claims in this application by inherency.

Since Claims 2-14 and 16-23 depend from Claims 1 and 15 respectively, it is believed that these claims are also patentable for at least the same foregoing reasons.

Applicants believe that claims 1-23 are in condition for allowance. If the Examiner has any questions regarding this communication or feels that an interview would be helpful in prosecuting this application, the Examiner is requested to contact the undersigned attorney.

Respectfully submitted,

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